

SENATE BILL 543

Unofficial Copy  
K3

2003 Regular Session  
3r0948  
CF 3r1548

---

By: **Senators Grosfeld, Britt, Forehand, Gladden, Jones, Lawlah, Ruben,  
and Teitelbaum**

Introduced and read first time: January 31, 2003

Assigned to: Finance

---

A BILL ENTITLED

1 AN ACT concerning

2 **Short-Term Disability for Working Families Act**

3 FOR the purpose of providing the criteria under which a covered employee is eligible  
4 to receive short-term disability benefits; providing that certain notice of a  
5 covered employee's intention to take short-term disability leave be given to a  
6 covered employee's employer under certain circumstances; requiring a covered  
7 employee to schedule certain treatment in a certain manner under certain  
8 circumstances; prohibiting that the short-term disability benefits under this  
9 title are not payable under certain circumstances; providing that certain strikes  
10 or lockouts do not disqualify a covered employee from receiving short-term  
11 disability benefits under certain circumstances; providing the amount of  
12 short-term disability benefits; authorizing the withholding of certain  
13 short-term disability benefits under certain circumstances; providing for a  
14 penalty under certain circumstances; providing that the Workers' Compensation  
15 Commission shall administer this Act; authorizing the creation of a Short-Term  
16 Disability for Working Families Fund; establishing the purpose of the Fund;  
17 providing that benefits are payable under this title only to the extent that  
18 moneys are available; providing that the State, Commission, and employers are  
19 not liable for payments under certain circumstances; authorizing certain  
20 persons to elect coverage under this Act under certain circumstances; requiring  
21 employers to maintain certain records under certain circumstances; requiring  
22 that premiums be paid at certain times under certain circumstances; requiring  
23 the Commission to provide certain information to claimants under certain  
24 circumstances; prohibiting certain retaliatory actions against claimants under  
25 certain circumstances; authorizing the Commission to adopt certain regulations;  
26 providing for the application and construction of this Act; defining certain terms;  
27 providing for a delayed effective date; and generally relating to the Short-Term  
28 Disability for Working Families Act.

29 BY adding to  
30 Article - Labor and Employment  
31 Section 9A-101 through 9A-118, inclusive, to be under the new title "Title 9A.  
32 Short-Term Disability for Working Families Act"  
33 Annotated Code of Maryland

1 (1999 Replacement Volume and 2002 Supplement)

2 Preamble

3 WHEREAS, Although family and medical leave laws have assisted employees to  
4 balance the demands of the workplace with their family responsibilities, more needs  
5 to be done to achieve the goals of workforce stability and economic security; and

6 WHEREAS, All working Americans need to be able to take leave from work, at  
7 times, to recover from their own serious illness, to take care of a seriously ill family  
8 member, or to care for a newborn or newly adopted child; and

9 WHEREAS, Americans who provide direct care for their family members  
10 prevent the worsening of illnesses and promote strong recovery; and

11 WHEREAS, For many workers, the promise of family and medical leave is  
12 meaningless because they cannot afford to take leave without pay; and

13 WHEREAS, Seventy-eight percent of eligible employees who needed to but did  
14 not take family or medical leave did not take it because they could not afford to; and

15 WHEREAS, One in ten employees who receive less than full pay while on leave  
16 are forced onto public assistance; and

17 WHEREAS, Forty-seven percent of women and men working in the private  
18 sector lack any access to paid sick leave to help compensate them if they become  
19 seriously ill and those who have access to paid sick leave may not be able to use it to  
20 receive a paycheck while caring for family members; and

21 WHEREAS, The establishment of benefits through a Short-Term Disability for  
22 Working Families Fund will reduce the impact on state income-support programs by  
23 increasing the ability of workers to recover from illness or provide care-giving  
24 services for family members while maintaining an employment relationship; and

25 WHEREAS, Family and medical leave benefits strengthen and support the  
26 business sector through health care savings and increased employee retention and  
27 productivity; and

28 WHEREAS, Organizations struggling to weather the current economic  
29 downturn will have a bottom line interest in maintaining a stable workforce and  
30 retaining experienced employees in whom they have already invested; and

31 WHEREAS, Demographic changes over the past few decades have altered the  
32 face and needs of our workforce; and

33 WHEREAS, It is now common for both parents to be in the workforce and many  
34 men and women also find themselves as the primary caregiver for an elderly spouse  
35 or parent; and

1 WHEREAS, Fifty-five percent of women with children younger than 1 year are  
2 part of the workforce while seventy-three percent of women with children 1 year or  
3 older are in the workforce; and

4 WHEREAS, Nearly two-thirds of Americans under the age of 60 years expect to  
5 be responsible for the care of an elder relative in the next 10 years; now, therefore,

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article - Labor and Employment**

9 TITLE 9A. SHORT-TERM DISABILITY FOR WORKING FAMILIES ACT.

10 9A-101.

11 (A) THIS LAW IS ENACTED TO ESTABLISH THE SHORT-TERM DISABILITY FOR  
12 WORKING FAMILIES ACT TO PROVIDE LIMITED INCOME SUPPORT FOR A  
13 REASONABLE TIME WHILE A COVERED EMPLOYEE IS AWAY FROM WORK ON  
14 SHORT-TERM DISABILITY LEAVE.

15 (B) THE GENERAL ASSEMBLY FINDS THAT THIS ACT PROTECTS THE HEALTH  
16 AND SAFETY OF MARYLAND RESIDENTS AND STRENGTHENS MARYLAND'S ECONOMY.  
17 9A-102.

18 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

19 (B) "APPLICATION YEAR" MEANS THE 12-MONTH PERIOD BEGINNING:

20 (1) ON THE FIRST DAY OF THE CALENDAR WEEK IN WHICH A COVERED  
21 EMPLOYEE FILES AN APPLICATION FOR SHORT-TERM DISABILITY BENEFITS; OR

22 (2) WITH THE FIRST DAY OF THE CALENDAR WEEK IN WHICH A  
23 COVERED EMPLOYEE FILES A SUBSEQUENT APPLICATION FOR SHORT-TERM  
24 DISABILITY LEAVE BENEFITS AFTER THE EXPIRATION OF THE COVERED  
25 EMPLOYEE'S LAST PRECEDING APPLICATION YEAR.

26 (C) "CHILD" MEANS AN INDIVIDUAL:

27 (1) UNDER THE AGE OF 18 YEARS WHO IS LEGALLY SUBJECT TO  
28 PARENTAL, GUARDIANSHIP, OR SIMILAR CONTROL; OR

29 (2) AT LEAST 18 YEARS OLD WHO IS DEPENDENT ON A PARENT BECAUSE  
30 OF MENTAL OR PHYSICAL INFIRMITY.

31 (D) "COMMISSION" MEANS THE WORKERS' COMPENSATION COMMISSION.

1 (E) (1) "COVERED EMPLOYEE" MEANS AN INDIVIDUAL, INCLUDING A  
2 MINOR, IN THE SERVICE OF AN EMPLOYER UNDER AN EXPRESS OR IMPLIED  
3 CONTRACT OF APPRENTICESHIP OR HIRE.

4 (2) "COVERED EMPLOYEE" MAY INCLUDE A MINOR EVEN IF THE MINOR  
5 IS EMPLOYED UNLAWFULLY.

6 (F) (1) "EMPLOYER" MEANS:

7 (I) AN EMPLOYER WITH AT LEAST ONE COVERED EMPLOYEE; AND

8 (II) EACH GOVERNMENTAL UNIT OR QUASI-PUBLIC CORPORATION  
9 THAT HAS AT LEAST ONE COVERED EMPLOYEE.

10 (2) "EMPLOYER" INCLUDES A TEMPORARY HELP COMPANY.

11 (G) "FAMILY MEMBER" MEANS A CHILD, SPOUSE, PRIMARY CAREGIVER, OR  
12 PARENT OF THE COVERED EMPLOYEE OR SPOUSE OF THE COVERED EMPLOYEE.

13 (H) "FUND" MEANS THE SHORT-TERM DISABILITY FOR WORKING FAMILIES  
14 FUND.

15 (I) "MAXIMUM WEEKLY BENEFIT AMOUNT" MEANS TWO-THIRDS OF THE  
16 STATE AVERAGE WEEKLY WAGE SET BY THE DEPARTMENT OF LABOR, LICENSING,  
17 AND REGULATION.

18 (J) "PHYSICIAN" MEANS A PERSON LICENSED TO PRACTICE MEDICINE IN THE  
19 STATE.

20 (K) "PREMIUM RATE" MEANS THE RATE, SET BY THE COMMISSIONER, THAT  
21 EACH COVERED EMPLOYEE MUST PAY INTO THE SHORT-TERM DISABILITY FOR  
22 WORKING FAMILIES FUND.

23 (L) "QUALIFYING YEAR" MEANS:

24 (1) THE FIRST FOUR OF THE LAST FIVE COMPLETED CALENDAR  
25 QUARTERS; OR

26 (2) THE LAST FOUR COMPLETED CALENDAR QUARTERS IMMEDIATELY  
27 PRECEDING THE FIRST DAY OF THE EMPLOYEE'S APPLICATION YEAR.

28 (M) "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS, INJURY,  
29 IMPAIRMENT, OR PHYSICAL OR MENTAL CONDITION THAT REQUIRES INPATIENT  
30 CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL MEDICAL CARE FACILITY OR  
31 CONTINUING TREATMENT BY A PHYSICIAN.

32 (N) "SHORT-TERM DISABILITY BENEFITS" MEANS ANY BENEFITS PAID TO A  
33 COVERED EMPLOYEE UNDER THIS TITLE.

34 (O) "SHORT-TERM DISABILITY LEAVE" MEANS LEAVE TAKEN BY A COVERED  
35 EMPLOYEE WHO IS TEMPORARILY DISABLED AND UNAVAILABLE TO WORK BECAUSE:

1 (1) THE COVERED EMPLOYEE MUST CARE FOR A NEWBORN, FOSTER, OR  
2 NEWLY ADOPTED CHILD WITHIN 12 MONTHS AFTER:

3 (I) THE BIRTH OF THE CHILD;

4 (II) THE PLACEMENT OF THE CHILD FOR FOSTER CARE; OR

5 (III) THE PLACEMENT OF THE CHILD AFTER ADOPTION;

6 (2) THE COVERED EMPLOYEE MUST CARE FOR A FAMILY MEMBER WHO  
7 HAS A SERIOUS HEALTH CONDITION; OR

8 (3) OF THE COVERED EMPLOYEE'S OWN SERIOUS HEALTH CONDITION.

9 (P) "TAXABLE WAGE CEILING" IS THE AMOUNT EQUAL TO 1.4 TIMES THE  
10 MAXIMUM WEEKLY BENEFIT AMOUNT, THE SUM OF WHICH IS MULTIPLIED BY 13  
11 WITH THE RESULTING TOTAL DIVIDED BY 55%.

12 9A-103.

13 THE COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS  
14 OF THIS TITLE.

15 9A-104.

16 (A) AN APPLICATION YEAR MAY NOT BE ESTABLISHED IF THE QUALIFYING  
17 YEAR INCLUDES HOURS WORKED BEFORE ESTABLISHMENT OF A PREVIOUS  
18 APPLICATION YEAR.

19 (B) SHORT-TERM DISABILITY BENEFITS ARE PAYABLE TO A COVERED  
20 EMPLOYEE WHEN THE COVERED EMPLOYEE IS ON SHORT-TERM DISABILITY LEAVE  
21 IF THE EMPLOYEE:

22 (1) FILES A CLAIM FOR BENEFITS AS REQUIRED BY THE COMMISSION;

23 (2) HAS BEEN EMPLOYED FOR AT LEAST 520 HOURS DURING THE  
24 EMPLOYEE'S QUALIFYING YEAR;

25 (3) ESTABLISHES AN APPLICATION YEAR;

26 (4) DOCUMENTS THAT THE COVERED EMPLOYEE HAS PROVIDED THE  
27 COVERED EMPLOYEE'S EMPLOYER WITH WRITTEN NOTICE OF THE COVERED  
28 EMPLOYEE'S INTENTION TO TAKE SHORT-TERM DISABILITY LEAVE IN ACCORDANCE  
29 WITH SUBSECTION (C) OF THIS SECTION; AND

30 (5) DISCLOSES IF THE COVERED EMPLOYEE HAS CHILD SUPPORT  
31 OBLIGATIONS.

32 (C) WRITTEN NOTICE SHALL BE GIVEN TO THE COVERED EMPLOYEE'S  
33 EMPLOYER:

1 (1) IF THE SHORT-TERM DISABILITY LEAVE IS FORESEEABLE BASED ON  
2 AN EXPECTED BIRTH OF A CHILD, PLACEMENT OF A CHILD, OR SERIOUS HEALTH  
3 CONDITION OF THE COVERED EMPLOYEE OR FAMILY MEMBER OF THE COVERED  
4 EMPLOYEE, AT LEAST 30 DAYS PRIOR TO THE FIRST DAY OF SHORT-TERM DISABILITY  
5 LEAVE;

6 (2) IF THE SHORT-TERM DISABILITY LEAVE IS UNFORESEEABLE DUE TO  
7 AN UNEXPECTED EARLY BIRTH OF A CHILD, EARLY PLACEMENT OF A CHILD, OR  
8 UNEXPECTED SERIOUS HEALTH CONDITION, AS MUCH NOTICE AS REASONABLY  
9 PRACTICABLE.

10 (D) IF THE COVERED EMPLOYEE REQUIRES MEDICAL TREATMENT FOR A  
11 SERIOUS HEALTH CONDITION, THE COVERED EMPLOYEE MUST MAKE REASONABLE  
12 EFFORTS TO SCHEDULE THE TREATMENT SO AS NOT TO UNDULY DISRUPT THE  
13 OPERATIONS OF THE EMPLOYER, SUBJECT TO APPROVAL OF THE COVERED  
14 EMPLOYEE'S PHYSICIAN OR THE PHYSICIAN OF THE COVERED EMPLOYEE'S FAMILY  
15 MEMBER.

16 9A-105.

17 A COVERED EMPLOYEE IS DISQUALIFIED FROM SHORT-TERM DISABILITY  
18 LEAVE BENEFITS BEGINNING WITH THE FIRST DAY OF THE CALENDAR WEEK, AND  
19 CONTINUING FOR THE NEXT 52 CONSECUTIVE WEEKS IF THE COVERED EMPLOYEE:

20 (1) INTENTIONALLY MAKES A FALSE STATEMENT OR  
21 MISREPRESENTATION REGARDING A MATERIAL FACT IN ORDER TO OBTAIN  
22 SHORT-TERM DISABILITY BENEFITS UNDER THIS TITLE;

23 (2) WILLFULLY FAILS TO REPORT A MATERIAL FACT IN ORDER TO  
24 OBTAIN SHORT-TERM DISABILITY BENEFITS UNDER THIS TITLE;

25 (3) SEEKS SHORT-TERM DISABILITY BENEFITS UNDER THIS TITLE  
26 BASED ON THE INTENTIONAL SELF-INFLICTION OF INJURY THAT RESULTS IN A  
27 SERIOUS HEALTH CONDITION; OR

28 (4) HAS A SERIOUS HEALTH CONDITION THAT IS A RESULT OF THE  
29 COVERED EMPLOYEE'S COMMISSION OF A FELONY.

30 9A-106.

31 (A) SHORT-TERM DISABILITY LEAVE BENEFITS ARE NOT PAYABLE FOR ANY  
32 WEEK WHEN COMPENSATION IS PAYABLE TO THE COVERED EMPLOYEE UNDER:

33 (1) TITLE 9 OF THIS ARTICLE; OR

34 (2) A FEDERAL WORKERS' COMPENSATION PROGRAM.

35 (B) A COVERED EMPLOYEE IS NOT DISQUALIFIED FROM RECEIVING  
36 SHORT-TERM DISABILITY BENEFITS DURING ANY WEEK WHEN THERE IS A STRIKE  
37 OR LOCKOUT AT THE COVERED EMPLOYEE'S PLACE OF EMPLOYMENT.

1 9A-107.

2 (A) SHORT-TERM DISABILITY BENEFITS ARE PAYABLE FOR A MAXIMUM OF 12  
3 WEEKS DURING AN APPLICATION YEAR.

4 (B) THE FIRST PAYMENT OF SHORT-TERM DISABILITY BENEFITS SHALL BE  
5 MADE TO A COVERED EMPLOYEE WITHIN 2 WEEKS AFTER A CLAIM IS FILED OR THE  
6 SHORT-TERM DISABILITY LEAVE BEGAN, WHICHEVER IS LATER.

7 (C) SHORT-TERM DISABILITY BENEFIT PAYMENTS SHALL BE MADE TWICE A  
8 MONTH AFTER THE FIRST PAYMENT.

9 (D) THE SHORT-TERM DISABILITY BENEFIT AMOUNT SHALL BE:

10 (1) FOR SHORT-TERM DISABILITY LEAVE COMMENCING BEFORE  
11 JANUARY 1, 2005, 55% OF A COVERED EMPLOYEE'S SALARY PER WEEK, NOT TO  
12 EXCEED \$336; AND

13 (2) FOR SHORT-TERM DISABILITY LEAVE COMMENCING ON OR AFTER  
14 JANUARY 1, 2005, 55% OF A COVERED EMPLOYEE'S SALARY PER WEEK, NOT TO  
15 EXCEED THE MAXIMUM WEEKLY BENEFIT AMOUNT.

16 (E) (1) IF A COVERED EMPLOYEE DISCLOSES THAT THE COVERED  
17 EMPLOYEE HAS A CHILD SUPPORT OBLIGATION AND THE COMMISSION DETERMINES  
18 THAT THE COVERED EMPLOYEE IS ELIGIBLE FOR SHORT-TERM DISABILITY  
19 BENEFITS, THE COMMISSION SHALL NOTIFY THE APPROPRIATE CHILD SUPPORT  
20 ENFORCEMENT AGENCY AND DEDUCT AND WITHHOLD AN AMOUNT FROM THE  
21 COVERED EMPLOYEE'S SHORT-TERM DISABILITY BENEFITS IN ACCORDANCE WITH  
22 THE TERMS OF ANY ORDER FOR CHILD SUPPORT.

23 (2) ANY AMOUNT DEDUCTED AND WITHHELD BY THE COMMISSION FOR  
24 A CHILD SUPPORT OBLIGATION SHALL BE PAID TO THE PERSON DESIGNATED TO  
25 RECEIVE CHILD SUPPORT PAYMENTS IN ACCORDANCE WITH THE ORDER FOR CHILD  
26 SUPPORT.

27 (F) A COVERED EMPLOYEE MAY ELECT TO HAVE FEDERAL INCOME TAX  
28 DEDUCTED AND WITHHELD FROM SHORT-TERM DISABILITY BENEFITS RECEIVED  
29 UNDER THIS TITLE.

30 9A-108.

31 (A) (1) IF THE COMMISSION FINDS THAT ANY PERSON FALSELY CERTIFIES  
32 A COVERED EMPLOYEE'S MEDICAL CONDITION IN ORDER TO OBTAIN SHORT-TERM  
33 DISABILITY BENEFITS WITH THE INTENT TO DEFRAUD, THE COMMISSION SHALL  
34 ASSESS A PENALTY AGAINST THE PERSON IN THE AMOUNT OF 25% OF THE  
35 SHORT-TERM DISABILITY BENEFITS PAID.

36 (2) PENALTIES COLLECTED UNDER THIS SUBSECTION SHALL BE PAID  
37 INTO THE SHORT-TERM DISABILITY FOR WORKING FAMILIES FUND.

1 (B) THE COMMISSION SHALL SEEK REPAYMENT OF SHORT-TERM DISABILITY  
2 BENEFITS FROM THE RECIPIENT IF:

3 (1) SHORT-TERM DISABILITY BENEFITS ARE ERRONEOUSLY PAID;

4 (2) SHORT-TERM DISABILITY BENEFITS ARE PAID AS A RESULT OF  
5 FRAUD; OR

6 (3) A CLAIM FOR SHORT-TERM DISABILITY BENEFITS IS REJECTED  
7 AFTER BENEFITS ARE PAID.

8 (C) (1) IF A COVERED EMPLOYEE DIES BEFORE RECEIVING PAYMENT OF  
9 SHORT-TERM DISABILITY BENEFITS, THE PAYMENT SHALL BE MADE TO THE  
10 COVERED EMPLOYEE'S SURVIVING SPOUSE OR, IF THERE IS NO SURVIVING SPOUSE,  
11 TO THE COVERED EMPLOYEE'S CHILD OR CHILDREN.

12 (2) IF THE COVERED EMPLOYEE HAS NO SURVIVING HEIRS, THE  
13 PAYMENT SHALL BE MADE TO THE COVERED EMPLOYEE'S ESTATE.

14 9A-109.

15 (A) EACH COVERED EMPLOYEE SHALL PAY PREMIUM RATES AT A RATE  
16 DETERMINED BY THE COMMISSIONER PURSUANT TO THIS SECTION.

17 (B) ON OR BEFORE OCTOBER 31 OF EACH CALENDAR YEAR THE  
18 COMMISSIONER SHALL PREPARE A STATEMENT, WHICH SHALL BE A PUBLIC  
19 RECORD, DECLARING THE RATE OF COVERED EMPLOYEE PREMIUMS FOR THE  
20 CALENDAR YEAR AND PROMPTLY SHALL NOTIFY ALL EMPLOYERS OF THE RATE.

21 (C) (1) THE AMOUNT OF A COVERED EMPLOYEE'S PREMIUM RATE FOR  
22 CALENDAR YEAR 2004 SHALL BE 1.81% OF A COVERED EMPLOYEE'S TAXABLE WAGES.

23 (2) THE AMOUNT OF A COVERED EMPLOYEE'S PREMIUM RATE FOR  
24 CALENDAR YEAR 2005 SHALL BE THE TAXABLE WAGE CEILING FOR CALENDAR YEAR  
25 2005.

26 (3) THE AMOUNT OF A COVERED EMPLOYEE'S PREMIUM RATE FOR EACH  
27 SUBSEQUENT YEAR AFTER 2005 SHALL BE 1.4 TIMES THE AMOUNT DISBURSED BY  
28 THE SHORT-TERM DISABILITY FOR WORKING FAMILIES FUND DURING THE  
29 12-MONTH PERIOD ENDING SEPTEMBER 30 AND IMMEDIATELY PRECEDING THE  
30 CALENDAR YEAR FOR WHICH THE PREMIUM IS TO BE EFFECTIVE, LESS THE AMOUNT  
31 IN THE SHORT-TERM DISABILITY FOR WORKING FAMILIES FUND ON THAT  
32 SEPTEMBER 30 WITH THE RESULTING FIGURE DIVIDED BY TOTAL BENEFITS PAID  
33 PURSUANT TO THIS TITLE DURING THE SAME 12-MONTH PERIOD, AND THEN  
34 ROUNDED TO THE NEAREST ONE-TENTH OF 1%.

35 9A-110.

36 (A) (1) THERE IS A SHORT-TERM DISABILITY FOR WORKING FAMILIES  
37 FUND.

1           (2)     THE COMMISSION SHALL PAY EACH PREMIUM COLLECTED UNDER  
2 THIS TITLE TO THE COMPTROLLER WHO SHALL DISTRIBUTE THE MONEY TO THE  
3 FUND.

4           (3)     (I)     THE FUND SHALL BE USED TO PROVIDE INCOME SUPPORT TO  
5 COVERED EMPLOYEES IN ACCORDANCE WITH THIS TITLE.

6                   (II)    THE FUND IS A CONTINUING NONLAPSING FUND, NOT SUBJECT  
7 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

8                   (III)   ANY UNSPENT PORTIONS OF THE FUND MAY NOT REVERT OR  
9 BE TRANSFERRED TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN  
10 THE FUND TO BE USED FOR THE PURPOSE SPECIFIED IN SUBSECTION (A)(3)(I) OF  
11 THIS SECTION.

12                   (IV)   NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE  
13 FUND.

14           (4)     (I)     THE COMMISSION SHALL ADMINISTER THE FUND.

15                   (II)    MONEYS IN THE FUND MAY ONLY BE EXPENDED FOR THE  
16 PURPOSE STATED IN SUBSECTION (A)(3)(I) OF THIS SECTION.

17           (5)     THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND  
18 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT  
19 ARTICLE.

20 9A-111.

21     (A)     SHORT-TERM DISABILITY BENEFITS ARE PAYABLE UNDER THIS TITLE  
22 ONLY TO THE EXTENT THAT MONEYS ARE AVAILABLE IN THE FUND.

23     (B)     THE STATE, COMMISSION, AND EMPLOYER ARE NOT LIABLE FOR ANY  
24 AMOUNT IN EXCESS OF THE LIMITS IN THE FUND.

25     (C)     THIS TITLE DOES NOT CREATE A CONTINUING ENTITLEMENT OR  
26 CONTRACTUAL RIGHT.

27 9A-112.

28     (A)     AN EMPLOYER NOT COVERED BY THIS TITLE OR A SELF-EMPLOYED  
29 INDIVIDUAL MAY ELECT COVERAGE UNDER THIS TITLE FOR AN INITIAL PERIOD OF  
30 NOT LESS THAN 3 YEARS OR A SUBSEQUENT PERIOD OF NOT LESS THAN 1 YEAR  
31 IMMEDIATELY FOLLOWING A PERIOD OF COVERAGE.

32     (B)     (1)     AN EMPLOYER OR A SELF-EMPLOYED INDIVIDUAL WHO ELECTS  
33 COVERAGE UNDER THIS SECTION MUST FILE A WRITTEN NOTICE OF ELECTION WITH  
34 THE COMMISSION.

35           (2)     AN ELECTION UNDER THIS SECTION IS EFFECTIVE ON THE DATE OF  
36 FILING.

1 (3) AN EMPLOYER OR A SELF-EMPLOYED INDIVIDUAL WHO ELECTS  
2 COVERAGE UNDER THIS TITLE MAY WITHDRAW FROM COVERAGE BY FILING  
3 WRITTEN NOTICE TO THE COMMISSION:

4 (I) WITHIN 30 DAYS AFTER THE END OF THE 3-YEAR PERIOD OF  
5 COVERAGE; OR

6 (II) AS OTHERWISE PRESCRIBED BY THE COMMISSION.

7 (4) WITHDRAWAL UNDER THIS SUBSECTION IS EFFECTIVE NOT SOONER  
8 THAN 30 DAYS AFTER FILING.

9 (C) (1) THE COMMISSION MAY CANCEL ELECTIVE COVERAGE OF AN  
10 EMPLOYER OR SELF-EMPLOYED INDIVIDUAL UNDER THIS SECTION:

11 (I) IF THE EMPLOYER OR SELF-EMPLOYED INDIVIDUAL FAILS TO  
12 PROVIDE PREMIUMS OR REPORTS AS REQUIRED BY THIS TITLE; AND

13 (II) THE COMMISSION SENDS WRITTEN NOTICE OF THE  
14 CANCELLATION TO THE SELF-EMPLOYED INDIVIDUAL.

15 (2) THE COMMISSION MAY:

16 (I) COLLECT PREMIUMS DUE TO THE FUND; OR

17 (II) LEVY ADDITIONAL PREMIUMS FOR THE REMAINDER OF A  
18 PERIOD OF COVERAGE.

19 (3) CANCELLATION UNDER THIS SUBSECTION IS EFFECTIVE NOT LATER  
20 THAN 30 DAYS FROM THE DATE THE COMMISSION SENDS NOTICE.

21 9A-113.

22 (A) (1) AN EMPLOYER SHALL MAKE REPORTS, FURNISH INFORMATION, AND  
23 REMIT PREMIUMS AS REQUIRED BY THE COMMISSIONER.

24 (2) IF AN EMPLOYER IS A TEMPORARY HELP COMPANY AND THE  
25 TEMPORARY HELP COMPANY FAILS TO REMIT THE REQUIRED PREMIUMS TO THE  
26 COMMISSION, THE CUSTOMER TO WHOM A COVERED EMPLOYEE WAS PROVIDED IS  
27 RESPONSIBLE FOR REMITTING PAYMENT.

28 (B) (1) AN EMPLOYER MUST MAINTAIN, AT THE EMPLOYER'S PRINCIPAL  
29 PLACE OF BUSINESS, A RECORD OF EMPLOYMENT FOR EACH COVERED EMPLOYEE  
30 SPECIFYING INFORMATION REQUIRED BY THE COMMISSIONER.

31 (2) AN EMPLOYER'S RECORDS OF EMPLOYMENT SHALL BE OPEN TO  
32 INSPECTION BY THE COMMISSION AT ANY TIME DURING REGULAR BUSINESS HOURS.

33 (C) (1) INFORMATION MAINTAINED IN EMPLOYMENT RECORDS IS  
34 CONFIDENTIAL AND NOT OPEN TO INSPECTION, OTHER THAN TO PUBLIC  
35 EMPLOYEES IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

1 (2) AN INTERESTED PARTY SHALL BE SUPPLIED WITH INFORMATION  
2 FROM EMPLOYMENT RECORDS TO THE EXTENT NECESSARY FOR THE PROPER  
3 PRESENTATION OF THE CASE IN QUESTION.

4 (3) A COVERED EMPLOYEE MAY AUTHORIZE INSPECTION OF THE  
5 COVERED EMPLOYEE'S EMPLOYMENT RECORD BY WRITTEN CONSENT.

6 9A-114.

7 (A) WHEN AN EMPLOYER QUILTS, SELLS, EXCHANGES, OR OTHERWISE  
8 DISPOSES OF A BUSINESS, ANY PREMIUM PAYABLE UNDER THIS TITLE IS  
9 IMMEDIATELY DUE AND PAYABLE.

10 (B) AN EMPLOYER MUST, WITHIN 10 DAYS AFTER THE EMPLOYER QUILTS,  
11 SELLS, EXCHANGES, OR OTHERWISE DISPOSES OF A BUSINESS, MAKE THE  
12 APPROPRIATE FILINGS AND REMIT THE APPROPRIATE PREMIUM PAYMENTS TO THE  
13 COMMISSIONER.

14 (C) A PERSON WHO BECOMES A SUCCESSOR TO A BUSINESS IS LIABLE FOR  
15 THE FULL AMOUNT OF THE PREMIUMS DUE FROM THE PREVIOUS OWNER AND MUST  
16 REMIT TO THE COMMISSION THE PREMIUMS DUE WITHIN 10 DAYS AFTER THE  
17 PURCHASE OR ACQUISITION OF THE BUSINESS.

18 (D) THE SUCCESSOR TO A BUSINESS SHALL WITHHOLD FROM THE PURCHASE  
19 PRICE A SUM SUFFICIENT TO PAY ANY PREMIUMS DUE FROM THE PREVIOUS OWNER  
20 UNTIL THE PREVIOUS OWNER PRODUCES A RECEIPT FROM THE COMMISSION  
21 INDICATING PAYMENT IN FULL OF ANY PREMIUMS DUE OR A CERTIFICATE  
22 INDICATING THAT NO PREMIUMS ARE DUE.

23 (E) (1) IF THE SUCCESSOR TO A BUSINESS REMITS PAYMENT OF PREMIUMS  
24 DUE FROM THE PREVIOUS OWNER, THE SUCCESSOR'S PAYMENT IS A PAYMENT UPON  
25 THE PURCHASE PRICE.

26 (2) IF THE PAYMENT OF PREMIUMS IS GREATER IN AMOUNT THAN THE  
27 PURCHASE PRICE, THE AMOUNT OF THE DIFFERENCE IS A DEBT DUE TO THE  
28 SUCCESSOR FROM THE PREVIOUS OWNER.

29 (F) A SUCCESSOR IS NOT LIABLE FOR ANY PREMIUMS DUE UNDER THIS  
30 SECTION IF THE SUCCESSOR GIVES WRITTEN NOTICE TO THE COMMISSION  
31 REGARDING THE PURCHASE OR ACQUISITION OF THE BUSINESS AND THE  
32 COMMISSION FAILS TO NOTIFY THE SUCCESSOR OF THE PREVIOUS OWNER'S  
33 OBLIGATIONS UNDER THIS SECTION WITHIN 180 DAYS OF RECEIPT OF THE NOTICE.

34 9A-115.

35 (A) NOTHING IN THIS TITLE SHALL LIMIT A COVERED EMPLOYEE'S RIGHT TO  
36 LEAVE EMPLOYMENT UNDER OTHER LAWS OR THE COVERED EMPLOYEE'S  
37 EMPLOYER POLICY.

1 (B) AN EMPLOYER MAY FIRST REQUIRE A COVERED EMPLOYEE TO UTILIZE UP  
2 TO 2 WEEKS OF EARNED BUT UNUSED VACATION LEAVE PRIOR TO THE COVERED  
3 EMPLOYEE'S RECEIPT OF SHORT-TERM DISABILITY BENEFITS UNDER THIS TITLE.

4 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN EMPLOYER  
5 MAY REQUIRE THAT SHORT-TERM DISABILITY LEAVE FOR WHICH AN EMPLOYEE IS  
6 RECEIVING SHORT-TERM DISABILITY BENEFITS BE TAKEN CONCURRENTLY WITH  
7 LEAVE UNDER THE FEDERAL FAMILY AND MEDICAL LEAVE ACT OF 1993 OR OTHER  
8 APPLICABLE FEDERAL, STATE, OR LOCAL LAW.

9 (2) IF AN EMPLOYER REQUIRES THAT SHORT-TERM DISABILITY LEAVE  
10 FOR WHICH AN EMPLOYEE IS RECEIVING SHORT-TERM DISABILITY BENEFITS BE  
11 TAKEN CONCURRENTLY WITH LEAVE UNDER THE FEDERAL FAMILY MEDICAL LEAVE  
12 ACT OF 1993 OR OTHER APPLICABLE FEDERAL, STATE, OR LOCAL LAW, THE  
13 EMPLOYER MUST PROVIDE WRITTEN NOTICE OF THE REQUIREMENT TO COVERED  
14 EMPLOYEES.

15 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COVERED  
16 EMPLOYEE WHO RECEIVES SHORT-TERM DISABILITY BENEFITS UNDER THIS TITLE  
17 MAY NOT LOSE ANY EMPLOYMENT BENEFIT, INCLUDING SENIORITY OR PENSION  
18 RIGHTS ACCRUED BEFORE THE DATE THAT SHORT-TERM DISABILITY LEAVE  
19 COMMENCED.

20 (2) THIS SUBSECTION DOES NOT ENTITLE A COVERED EMPLOYEE TO  
21 ACCRUE EMPLOYMENT BENEFITS DURING A PERIOD OF SHORT-TERM DISABILITY  
22 LEAVE OR TO A RIGHT, BENEFIT, OR POSITION OF EMPLOYMENT OTHER THAN A  
23 RIGHT, BENEFIT, OR POSITION OF EMPLOYMENT TO WHICH THE COVERED  
24 EMPLOYEE WOULD HAVE BEEN ENTITLED HAD THE COVERED EMPLOYEE NOT  
25 TAKEN THE SHORT-TERM DISABILITY LEAVE.

26 (F) THIS TITLE DOES NOT DIMINISH AN EMPLOYER'S OBLIGATION TO COMPLY  
27 WITH A COLLECTIVE BARGAINING AGREEMENT OR EMPLOYMENT BENEFIT  
28 PROGRAM THAT PROVIDES GREATER BENEFITS TO COVERED EMPLOYEES THAN  
29 SHORT-TERM DISABILITY BENEFITS PROVIDED UNDER THIS TITLE.

30 (G) SHORT-TERM DISABILITY BENEFITS PROVIDED UNDER THIS TITLE MAY  
31 NOT BE DIMINISHED BY A COLLECTIVE BARGAINING AGREEMENT OR EMPLOYMENT  
32 BENEFIT PROGRAM THAT IS ENTERED INTO AFTER THE EFFECTIVE DATE OF THIS  
33 TITLE.

34 (H) AN AGREEMENT BY A COVERED EMPLOYEE TO WAIVE THE COVERED  
35 EMPLOYEE'S RIGHTS UNDER THIS TITLE IS VOID AS AGAINST PUBLIC POLICY.

36 9A-116.

37 THE COMMISSION SHALL ADVISE A COVERED EMPLOYEE FILING A NEW CLAIM  
38 UNDER THIS TITLE THAT SHORT-TERM DISABILITY BENEFITS RECEIVED UNDER  
39 THIS TITLE ARE A PRE-TAX BENEFIT NOT SUBJECT TO THE FEDERAL INCOME TAX.

1 9A-117.

2 AN EMPLOYER, TEMPORARY SERVICES AGENCY, EMPLOYMENT AGENCY,  
3 EMPLOYEE ORGANIZATION, OR OTHER PERSON MAY NOT DISCHARGE, EXPEL, OR  
4 OTHERWISE DISCRIMINATE AGAINST AN INDIVIDUAL BECAUSE THE INDIVIDUAL  
5 HAS FILED, OR COMMUNICATED TO THE EMPLOYER AN INTENT TO FILE, A CLAIM  
6 UNDER THIS TITLE.

7 9A-118.

8 THIS TITLE IS THE SHORT-TERM DISABILITY FOR WORKING FAMILIES ACT.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 January 1, 2004.